



Interview Summary: Michael Keenan, Kevin Brosseau, Melanie Vanstone, Duwayne Williams, and Christian Dea, Transport Canada

This interview summary should be read in conjunction with: Transport Canada (“**TC**”)’s Institutional Report and the witness summary for Minister Omar Alghabra.

Senior officials from TC were interviewed by John Mather, Shantona Chaudhury, Stephen Armstrong and Alexandra Heine on August 30, 2022. Any questions regarding this summary should be directed to Mr. Armstrong.

Text contained in [square brackets] are explanatory notes provided by Commission Counsel to assist the reader. Certain documents are referred to in the footnotes to assist the reader but in some cases these documents were not shown to or discussed with the panel at the interview.

Background

TC is responsible for developing and overseeing the Government of Canada’s transportation policies and programs. TC’s portfolio includes more than 41 shared governance organizations, 8 crown corporations and 4 administrative agencies and tribunals. TC’s regulatory mandate includes airports and marine ports, as well as international and interprovincial railways, and bridges, and the transportation of dangerous goods. TC’s jurisdiction over commercial trucking is limited to certain aspects of international and interprovincial trucking undertakings such as regulations regarding hours of service.

Mr. Michael Keenan is the Deputy Minister of TC. As Deputy Minister, he advises the Minister of Transport and the Government of Canada on all matters relating to the mandate of TC. During the protests, his role included overseeing the work of TC, briefing the Minister of Transport, coordinating with other Deputy Ministers, and liaising with provincial, territorial and local transportation and public safety officials on issues relating to the Freedom Convoy.

Mr. Kevin Brosseau is the Assistant Deputy Minister for Safety and Security with TC. During the protests, he oversaw TC’s efforts to identify the legal authorities and strategies that could be brought to bear to respond to the protests, including the development of the Strategic Enforcement Strategy and the Tow Truck Strategy. He also coordinated with TC’s national security partners, as well as provincial, territorial and local transportation and law enforcement officials.

Ms. Melanie Vanstone is the Director General, Multi-modal and Road Safety Programs with TC. She engaged with stakeholders, such as industry groups and labour groups, to gather feedback concerning the impact of the border blockades. She was involved in



options analysis, which included the Strategic Enforcement Strategy and the Tow Truck Strategy.

Mr. Duwayne Williams is the Regional Director General for Ontario with TC. His role was to gather information from regulated parties and stakeholders about transportation infrastructure and operations in Ontario and relay it to TC officials and key stakeholders.

Mr. Christian Dea is the Director General of Economic Analysis and Chief Economist with TC. He oversaw the development of economic analyses concerning the impact of the border blockades on the movement of goods and people.

Arrival of the Convoy

On or around January 22-23, 2022, TC began observing social media posts discussing the Freedom Convoy.

At the outset of the COVID-19 Pandemic, TC established regular lines of communication with trucking industry participants, such as the Canadian Trucking Alliance (“**CTA**”) and the Private Motor Truck Council of Canada (PMTC), as well as Teamsters Canada. TC received feedback that some members of the trucking industry were opposed to the vaccine mandate for international truckers, first introduced by the United States, because it could exacerbate a pre-existing labour shortage in the sector; however, industry representatives also acknowledged the importance of reciprocity with respect to border measures. TC communications with the trucking industry on this topic did not provide an indication that a protest like the Freedom Convoy would occur.

Transport Canada’s Relationships with Other Actors during the Protests

Mr. Keenan participated in regular meetings of federal Deputy Ministers (“**DMOC**”). The Freedom Convoy was discussed at DMOC meetings prior to its arrival in Ottawa on or around January 28, 2022. DMOC meetings included threat analyses and discussions concerning authorities or tools that could be brought to bear to respond to the protests. DMOC also provided daily updates on the protests to select ministers, including the Minister of Transport and the Minister of Public Safety.

TC’s Regional Director Generals, such as Duwayne Williams in Ontario, were also connected with their regional federal counterparts, as well as federal agencies and private party entities subject to TC’s regulatory authority. Duwayne Williams coordinated information gathered from all regions, which he distilled and further disseminated throughout TC.

Transport Canada’s Role in the Government of Canada’s Response to the Protests

TC took on a number of roles during the protests.



First, TC gathered and analyzed information from a variety of sources and networks, including other federal agencies and departments, as well as industry groups and stakeholders. Through discussions with trucking industry stakeholders, TC learned that many of the participants in the protest were independent owner-operators, including owner-operators who were engaged in seasonal activities. TC also monitored social media directly to gather information. Mr. Keenan participated in meetings with federal Deputy Minister colleagues, provincial Deputy Minister colleagues, as well as meetings with Deputy Minister of Public Safety, the Deputy Mayor of Ottawa, the Ottawa Police Service (“**OPS**”) Chief of Police, and counterparts from the Government of Ontario.

Second, TC consulted with affected stakeholders and carried out analysis to ascertain the operational and economic impact of the protests with respect to blockades at ports of entry.

Third, TC exercised its authorities to complement law enforcement responses to the protests by, for example, issuing Notices to Airmen and Notices to Civil Airmen, to prohibit air travel over various protest sites and by providing support to local law enforcement investigating offences by protesters concerning the transportation of dangerous goods.

Fourth, TC performed policy analysis to develop solutions to the crisis posed by the protests. TC developed the Strategic Enforcement Strategy and the Tow Truck Strategy in collaboration with other federal departments, and sought input from working groups of provincial and territorial counterparts. Mr. Dea oversaw economic analyses of the impact of the border blockades at various points of entry.

[Analysis of the Economic Impact from the Blockades](#)

By February 8, 2022, TC was concerned with the magnitude of trade disrupted by the Ambassador Bridge and Coutts blockades. The Ambassador Bridge ordinarily accommodates 7000 trucks per day, much of which is tied in with supply chains in the automotive, food, and pharmaceutical industries. TC’s assessment is that the economic impact of blockades increases in a non-linear fashion the longer the blockade continues.

TC’s Economic Analysis Directorate, headed by Mr. Dea, gained significant experience analyzing the impact of blockades on supply chains during the 2020 rail blockades in Ontario and British Columbia. To analyze the blockades in 2022, Mr. Dea and his team relied on CBSA data to track daily variations in traffic volume. They also relied on data from Statistics Canada to estimate the volume and type of goods impacted by the blockades. Mr. Dea and his team followed up in real time with industry stakeholders to attempt to validate their estimate. The feedback from industry stakeholders was mostly qualitative, not quantitative. When stakeholders reported a disruption to trade during this



process, Mr. Dea reported it on to other officials at TC. Mr. Dea's economic analysis was shared with the Department of Finance and other federal departments.¹

TC does not have an after-the-fact analysis of the actual economic impact of the blockades. In Mr. Dea's view, it would be challenging to attribute causation for the purpose of such analysis given the myriad events impacting the international flow of goods. For example, a decrease in trade activity could be the result of the protests, global supply chain problems or other causes. Mr. Keenan pointed out that the risk of adverse impact on future investment decisions because of concerns regarding the reliability of Canada's trade gateways is material, but difficult to directly measure.

Policy Options Developed in Response to the Protests

TC developed two strategy papers which presented policy options for making the best use of existing authorities related to transportation to help respond to the protests: (1) the Strategic Enforcement Strategy; and (2) the Tow Truck Strategy.

Strategic Enforcement Strategy.

TC developed what became known as the "Strategic Enforcement Strategy" as a continuum of options for local law enforcement and provinces to respond more effectively to the protests.² The strategy had two parts: (1) communication; and (2) enforcement.

The communication element called for more robust communication from every level of government to Convoy participants to inform them that what they were doing was illegal and that there would be consequences for illegal activities. The enforcement element involved increasing enforcement by local law enforcement and the provinces of existing offences and prohibitions to deter further participation in the protests with the threat of more severe penalties. This included the application of all possible provisions under various provincial highway traffic act laws.

Through participation in various fora, TC heard that law enforcement policing the various protest sites lacked the tools to address the crisis effectively. TC developed the Strategic Enforcement Strategy as a means to assist law enforcement with that problem.

TC sought input on the Strategic Enforcement Strategy from provincial counterparts at multilateral and bilateral meetings with provincial departmental and ministerial counterparts starting on February 4, 2022. In particular it was presented in a joint meeting with federal and provincial counterparts in transportation and public safety on February

¹ PB.CAN.00000817_REL.0001; PB.CAN.00000840_REL.0001; PB.CAN.00000878_REL.0001.

² PB.CAN.00000860_REL.0001.



7, 2022.³ TC received mixed feedback from Alberta and Ontario, which were concerned about being perceived to be directing law enforcement agencies in how they carry out their functions. TC also received feedback from Ontario to the effect that Ontario's *Highway Traffic Act* did not impose immediate penalties and lacked instantaneous sanctions which would limit its applicability in addressing a protest situation. Ontario also asserted that the federal government could leverage its own authorities to address protests at the Ambassador Bridge.⁴

Authorities across Canada implemented strategies similar to the Strategic Enforcement Strategy. Quebec City and Toronto were successful in deterring occupations of their downtown cores using strategies that resembled elements of the Strategic Enforcement Strategy. TC does not believe that Quebec City or Toronto knew of or were following TC's strategy. The interviewees pointed out that Quebec City's and Toronto's approaches were similar to what TC had been contemplating.

Tow Truck Strategy

TC also developed what became known as the "Tow Truck Strategy" in response to a shortage reported by local law enforcement, municipalities and provinces of available tow trucks and qualified drivers to remove vehicles from protest sites.⁵ The Tow Truck Strategy analyzed the feasibility of a range of escalating options for Canada to support the removal of vehicles from the blockades using existing authorities. The strategy included considerations for Canada to contract tow services, provide qualified drivers and/or provide support for vehicle storage. TC's work on the Tow Truck Strategy stopped following the declaration of a public order emergency, as the emergency measures that were adopted pursuant to the *Emergencies Act* addressed the problem outlined in the Tow Truck Strategy.

Alberta's Request for Assistance

Public Safety received Alberta's Request for Assistance ("**RFA**") to deal with the Coutts border blockade on February 5, 2022. Alberta inquired about whether the Canadian Armed Forces ("**CAF**") base in Edmonton had heavy equipment and tow trucks to lend to assist the RCMP at Coutts. TC's understanding is that the CAF did not have the appropriate equipment. TC understands that Alberta eventually procured its own tow trucks and that Alberta's needs evolved over time to center on a need for qualified drivers.

³ **SSM.CAN.00000363_REL.0001.**

⁴ **SSM.CAN.00000374_REL.0001.**

⁵ **PB.CAN.00000866_REL.0001.**



Invocation of the *Emergencies Act*

Mr. Keenan recalls that the federal *Emergencies Act* started to be considered around February 8-10, 2022. From January 28-February 10, 2022, the Government of Canada's approach was focused on making the best use of existing authorities. Mr. Keenan's recollection was that when traffic at the Ambassador Bridge and Coutts became completely closed off, there was a growing sense of the increasing harm from the blockades and the limits of existing authorities to resolve them, despite the constant effort since January 28.

On February 10, 2022, Mr. Keenan participated in an email thread initiated by Nathalie Drouin, of the Privy Council Office ("**PCO**"), and contributed to by other senior civil servants from the Department of Justice, Public Safety, the Canada Border Services Agency, and PCO. Ms. Drouin inquired whether the Government of Canada could assert jurisdiction over the municipal road in Windsor where the protests blockading the Ambassador Bridge were taking place by declaring the road a "trade corridor".⁶ Mr. Keenan's response was four-fold. He replied:

"...First, there is no specific 'trade corridor' federal authority I know of. The only specific critical infrastructure or trade corridor authority I know of that would apply is in Alberta through their Critical Infrastructure Defence Act... But other provinces like Ontario could probably impose something like this through orders under their Emergency Act.

Second, the critical gap is actual enforcement action by local/provincial authorities, not legal authorities to enforce. Despite the chaos at Coutts for many days, there have been no charges under the Alberta Infrastructure Act to my knowledge, despite the power of that legislation.

Third, the Ontario Minister of Transportation continued to suggest the feds have full authority to manage international crossings, but this purposefully confuses authorities between governments...

Fourth and most importantly, there may be a way an innovative way to leverage 'critical trade corridors'. We could request Ontario immediately use its Emergency Act to impose orders and penalties akin to Alberta's Critical Infrastructure Defence Act (and include forfeiture of vehicle licenses etc).

We can further suggest quietly to Ontario [sic] truly wants us to invoke federal authority to manage this crisis they need to declare an emergency

⁶ SSM.CAN.00000374_REL.0001.



they cannot manage so we can thereby invoke the federal Emergencies Act to manage the blockades..."⁷

Mr. Keenan explained in regards to his second point that his comments were made in the context of an inquiry regarding whether Canada could assert jurisdiction over trade corridors. His comments did not speak to what was underlying the lack of enforcement by police. In fact, the problem appeared to be beyond the capacity of local law enforcement to address. At the same time there were options to bring additional provincial authorities to bear that were not being fully exercised. For example, local law enforcement had authorities available to them under the *Criminal Code*. Alberta officials had not made any use of the significant authorities in their *Critical Infrastructure Defence Act* to help address the blockade on the highway at Coutts. Ontario had not made use of authorities under its Emergency Act to provide law enforcement with more tools.

Ontario adopted emergency measures under its emergency legislation on February 11, 2022 Ontario adopted measures that prohibited blockades of critical infrastructure and accelerated penalties for the owners or operators of vehicles engaged in such blockades, TC viewed this as a positive step, and believed Ontario's emergency measures had a significant positive effect responding to the Ambassador Bridge blockade.

Leading up to the Government of Canada's decision to invoke the *Emergencies Act*, TC assessed the existing authorities as well as additional authorities that could be brought to bear to address the crisis.⁸ TC was concerned with the extent of the economic damage to supply chains and Canada's trade relationship with the United States caused by the border blockades at Coutts and the Ambassador Bridge. TC was also concerned that the protests could spread to other critical infrastructure, such as railways, airports and marine ports. The Strategic Enforcement Strategy and the Tow Truck Strategy were not complete solutions and would take time to implement and would need to be implemented by various law enforcement partners across Canada. TC was of the view that, in the absence of a more immediate solution to the blockades, it was likely that the Canadian economy would experience escalating economic damage.

On February 13, 2022, Mr. Keenan participated in a DMOC meeting, among other meetings, concerning the federal *Emergencies Act*.⁹ At the DMOC meeting, the advantages and disadvantages of invoking the statute were mooted by senior civil servants. As a consideration, Mr. Keenan asked whether using the *Emergencies Act* could "backfire in building more energy" in support of the protests.¹⁰ He also "made a big

⁷ SSM.CAN.00000374_REL.0001.

⁸ PB.CAN.00000822_REL.0001; PB.CAN.00000861_REL.0001.

⁹ SSM.CAN.00000399_REL.0001.

¹⁰ SSM.CAN.00000399_REL.0001.



push to get provinces other than Ontario to do Ontario measures.”¹¹ Mr. Keenan explained that his remarks were part of a conversation rigorously testing all alternative and options open to the Government of Canada, and setting out the potential unintended consequences of the use of the *Emergencies Act*.

Forward-Looking Policy Considerations

The border blockades put a spotlight on the vulnerability of critical infrastructure embedded in international and interprovincial trade corridors. The blockades revealed a mismatch between jurisdictional authorities and responsibilities. A lack of enforcement capacity at the level of local law enforcement had a major impact on the operation of federal undertakings. A national legislative regime that can be used to protect critical trade and transportation infrastructure on an ongoing basis without the need to invoke emergency legislation may be desirable.

¹¹ SSM.CAN.00000399_REL.0001.